

**Notice of Allowability**

Application No.

09/540,024

Examiner

Samuel W. Liu

Applicant(s)

TZIANABOS ET AL.

Art Unit

1653

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 1/23/06.
2. ☒ The allowed claim(s) is/are 19,153,155-158 and 161.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |   |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                                 |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date <u>2/15/06</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment   |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance                        |
|   | 9. <input type="checkbox"/> Other _____   |

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### **DETAILED ACTION**

The amendment filed 1/23/06, which amends claims 1, 19 and 153, and cancels claims 2-18, 20-152, 154, 159-160 and 162-165, has been entered. The following Office action is applied to pending claims 1, 19, 153, 155-158 and 161.

### **EXAMINER'S AMENDMENT**

An Examiner's Amendment to the record appears below. Should the change and/or additions be unacceptable to Applicant, an amendment may be filed as provided by 37 C.F.R. § 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than payment of the Issue Fee.

Authorization for this Examiner's Amendment was given in a telephone interview with Alan W. Steele on February 10, 2006. Applicants agree to the examiner proposed amendment with regard to cancellation of claim 1 (see also the attached Interview Summary).

#### **Amendments to the claim:**

Cancel claim 1.

#### **Amendments to the specification:**

In abstract is amended as follows (in one paragraph):

A pharmaceutical composition consisting of identical repeating units, each unit having a charge motif composed of a positively charged free amino moiety and a negatively charged moiety, wherein the positively charged free amino moiety and the negatively charged moiety of each charge motif are separated by at least one neutral amino acid, and wherein the positively charged free amino moiety of one of the charge motifs is separated by a distance of at least 8 amino acids from the positively charged amino moiety of another charge motif, and a pharmaceutically acceptable carrier. Said pharmaceutical composition is useful for inducing IL-2, activating T cells to produce a T helper 1 cytokine profile, suppressing IgG antibody response to specific antigen, promoting allograft survival, reducing postoperative surgical adhesion formation, and/or protecting against abscess formation associated with surgery, trauma or diseases that predispose the host to abscess formation.

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*Conclusion:* claims 19, 153, 155-158 and 161 are allowed.

The following is an **Examiner's Statement of Reasons for Allowance:**

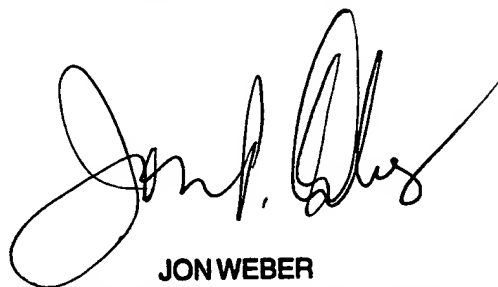
The rejections under 35 USC 102 in the office action mailed 10/20/05 are withdrawn because the Stanley et al. (US Pat. No. 5130417) do not teach or suggest the composition comprising the polypeptide compound (233 amino acid residues) which consists of the identical repeating units having a charge motif which has the structural features set forth in claim 19 and the dependent claims thereto, and because the amended claims 19 and 153 obviate the rejection under 35USC 112, second paragraph set forth in the Office action mailed 10/20/05. Hence, the claims are therefore allowable over the art of record.

Any comments considered necessary by applicants must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Samuel Wei Liu, Ph.D. whose telephone number is (571) 272-0949. The Examiner can normally be reached daily except alternate Fridays from 8:30 A.M. to 5:30 P.M. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Jon Weber, can be reached at (571) 272-0925. The official fax number for Technology Center 1600 is (703) 308-4242. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 1600 receptionist whose telephone number is (703) 308-0196.



Samuel W. Liu, Ph.D.  
Art Unit 1653, Examiner  
February 15, 2006



JON WEBER  
SUPERVISORY PATENT EXAMINER

### **Abstract**

A pharmaceutical composition consisting of identical repeating units, each unit having a charge motif composed of a positively charged free amino moiety and a negatively charge moiety, wherein the positively charged free amino moiety and the negatively charged moiety of each charge motif are separated by at least one neutral amino acid, and wherein the positively charged free amino moiety of one of the charge motifs is separated by a distance of at least 8 amino acids from the positively charged amino moiety of another charge motif, and a pharmaceutically acceptable carrier. Said pharmaceutical composition is useful for inducing IL-2, activating T cells to produces a T helper 1 cytokine profile, suppressing IgG antibody response to specific antigen, promoting allograft survival, reducing postoperative surgical adhesion formation, and/or protecting against abscess formation associated with surgery, trauma or diseases that predispose the host to abscess formation.